

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

NIVIA FRATICELLI-TORRES, et  
al.,

Plaintiffs,

v.

C.D.T. DR. ARNALDO GARCIA  
RIVERA, et al.,

Defendants.

Civil No. 04-1639 (JAF)

**O R D E R**

Plaintiffs move to alter or amend judgment pursuant to Federal Rule of Civil Procedure 59(e). Docket Document No. 89.

Motions for reconsideration "are entertained by courts if they seek to correct manifest errors of law or fact, present newly-discovered evidence, or when there is an intervening change in the law." Lima-Rivera v. UHS of P.R., Inc., 2005 WL 2095786 at \*1 (D.P.R. Aug. 30, 2005) (citing Jorge Rivera Surillo & Co. v. Falconer Glass Indus., Inc., 37 F.3d 25, 29 (1st Cir. 1994)). Plaintiffs have made no showing, nor do we find, that any such circumstance is presented here.

Plaintiffs instead repeat arguments that we have already addressed in our January 17, 2006 opinion and order. Docket Document No. 87.

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1           The First Circuit has repeatedly addressed motions brought under  
2           the present posture.

3                     This court has explained that a motion under  
4                     Rule 59(e) is not appropriately used to present  
5                     new issues or evidence: Rule 59(e) motions are  
6                     aimed at reconsideration, not initial  
7                     consideration. Thus parties should not use them  
8                     to raise arguments which could, and should, have  
9                     been made before judgment issued. [Rule 59(e)  
10                    motions] must either clearly establish a  
11                    manifest error of law or must present newly  
12                    discovered evidence. They may not be used to  
13                    argue a new legal theory.

14           Jorge Rivera Surillo, 37 F.3d at 29 (quoting Fed. Deposit Ins. Corp.  
15           V. World Univ., Inc., 978 F.2d 10, 16 (1st Cir. 1992)); see also  
16           Venegas-Hernandez-Sonolux Records, 370 F.3d 183, 190 (1st Cir. 2004);  
17           Bogosian v. Woloohojian Realty Corp., 323 F.3d 55, 72 (1st Cir.  
18           2003); Rivera-Garcia v. Ana G. Mendez Univ. Sys., 359 F. Supp. 2d 58,  
19           59 (D.P.R. 2005). Plaintiffs put forward nothing in the present  
20           motion that suggests a manifest error, or rely upon evidence that was  
21           not previously available to them.

22           We, therefore, **deny** Plaintiffs' motion for reconsideration.

23           **IT IS SO ORDERED.**

24           San Juan, Puerto Rico, this 17<sup>th</sup> day of February, 2006.

25                               S/José Antonio Fusté  
26                               JOSE ANTONIO FUSTE  
27                               Chief U.S. District Judge